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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,364	11/14/2003	Stacy A. Hunt	US20030303	9149

173 7590 07/24/2006

WHIRLPOOL PATENTS COMPANY - MD 0750  
500 RENAISSANCE DRIVE - SUITE 102  
ST. JOSEPH, MI 49085

EXAMINER

GRAY, JILL M

ART UNIT PAPER NUMBER

1774

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,364

Applicant(s)

HUNT ET AL.

Examiner

Jill M. Gray

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-17, 21-28, 30-34 and 37-47 is/are pending in the application.
- 4a) Of the above claim(s) 13-17, 21-28, 30-34 and 37-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-12, 46 and 47 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1774

1. The indicated allowability of claims 3 and 4 is withdrawn in view of the newly discovered reference(s) to Hilpert et al, 1,902,237 and Wright 1,829,623. Rejections based on the newly cited reference(s) follow.
2. The rejection of claims 1-2, 5-6, 9-12 under 35 U.S.C. 102(b) as being anticipated by Stoddard 1, 968,658 is moot in view of applicants' amendments.
3. The rejection of claim 29 under 35 U.S.C. 103(a) as being unpatentable over Hess et al, US 2001/0032825 A1 in view of Stoddard 1,968,658 is withdrawn in view of applicants' amendments.
4. The rejection of claims 7 and 8 under 35 U.S.C. 103(a) as being unpatentable over Stoddard 1,968,658 in view of Richart 3,640,747 is withdrawn in view of applicants' amendments.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 9-12, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilpert et al, 1,902,237 (Hilpert) in view of Wright 1,829,623.

Hilpert teaches a dishrack comprising a metal frame configured to support dishes and an exterior coating covering at least a portion of the metal frame, wherein the exterior coating protects the metal frame from corrosion, per claim 1. The frame comprises a wire-form having multiple interconnected wires and has a bottom wall and

Art Unit: 1774

a peripheral wall extending upwardly from the bottom wall with tines located within the dish-holding recess, as required by claims 9-10. Also, Hilpert teaches that the exterior coating covers the entire metal frame. See Figs. 1 and 2 and page 2, lines 47-52. The exterior coating comprises rubber or similar organic materials as well as natural and synthetic resins. See page 1, line 85 through page 2, and line 2. In addition, Hilpert teaches that the base metal frame can be coated with another metal that is less readily corrodible than the metal of the frame. See page 2, lines 21-32. Accordingly, Hilpert teaches an exterior coating that comprises a layer on the metal frame and a polymer layer on said layer. Hilpert does not specifically teach a paint layer. Wright teaches a process of treating metals to protect them against the effects of oxidation and other corrosive agents. Said process comprising applying a coating metal as a paint. See page 1, lines 13-14 and 77-80. It would have been obvious to the skilled artisan at the time the invention was made to form a dish rack as taught by Hilpert, wherein the metal layer on the metal frame is applied as a paint as taught by Wright with the reasonable expectation of success of producing a metal frame that is protected against the effects of oxidation and other corrosive agents. As to the paint layer being electrocoated, this limitation is drawn to the process of applying the coating, and in general, process limitations add no patentable weight to an instant claimed product, in the absence of factual evidence to the contrary, said evidence being directly related to the process.

Therefore, the teachings of Hilpert and Wright would have rendered obvious the invention as claimed in present claims 5, 9-12, and 46.

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilpert et al, 1,902,237 (Hilpert) in view of Wright 1,829,623 as applied to claims 5, 7-12 and 46 above, and further in view of Richart 3,640,747.

Hilpert and Wright are as set forth above but do not teach the application of polyvinyl chloride or a polyvinyl chloride blend. Richart teaches protective vinyl coatings that are tough, durable, inexpensive and fairly resistant to chemical attacks, wherein said coatings can be used as the coating of dish rack for use in automatic dishwashers. See column 1, lines 8-18 and 33-45. It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Hilpert by substituting the rubber coating with a vinyl coating as taught by Richart, with the reasonable expectation of success of producing a dish rack that is tough, durable, resistant to chemical attacks and inexpensive.

Therefore, the combined teachings of Hilpert, Wright, and Richart would have rendered obvious the invention as claimed in present claims 6-8.

8. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al, US 2001/0032825 A1 (Hess) in view of Hilpert et al, 1,902,237 (Hilpert) and Wright 1,829,623, each as applied above to claims 5-12 and 46.

Hess teaches an automated dishwasher comprising a wash tub having a top, bottom, side, and rear walls, which collectively form an open-faced wash chamber, a door hingedly mounted relative to the wash tub for movement between an open and closed condition, a dish rack located within the open-faced wash chamber and comprising a metal frame configured to support dishes; and an exterior coating covering

Art Unit: 1774

at least a portion of the metal frame comprising a layer of plastic. See Figure 1 and [005]. Hess does not specifically teach an electrocoated layer on the metal frame or a polymer layer on the electrocoated layer.

As set forth above, the requirement that the layer be electrocoated is drawn to the process of making and does not add patentable weight to the instant claims. Hilpert is as set forth above and teaches a dish rack comprising a metal frame configured to support dishes, an exterior coating covering at least a portion of the metal frame that protects the metal frame from corrosion whereby said exterior coating can be a metallic layer on the metal frame and a polymer layer on said metallic layer. Wright teaches the application of protective coatings in form of metal paints onto metal substrates to protect against oxidation and corrosion. It would have been obvious to modify the coated dish rack of Hess by including a metal paint layer to provide added protection to the metal frame of the dish rack against oxidation and corrosion.

Therefore, the combined teachings of Hess, Hilpert and Wright would have rendered obvious the invention as claimed in present claim 47.

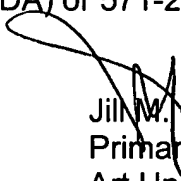
9. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 10:30-7:00.

Art Unit: 1774

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jill W. Gray  
Primary Examiner  
Art Unit 1774

jmg